

§ 315.608

5 CFR Ch. I (1–12 Edition)

service requirement for career tenure by § 315.201(c).

[45 FR 43365, June 27, 1980, as amended at 46 FR 35079, July 7, 1981; 54 FR 37092, Sept. 7, 1989]

§ 315.608 Noncompetitive appointment of certain former overseas employees.

(a) *Authority.* An executive branch agency may noncompetitively appoint, to a competitive service position within the United States (including Guam, Puerto Rico, and the Virgin Islands), an individual who has completed 52 weeks of creditable overseas service as defined in paragraph (b) of this section and is appointed within the time limits in paragraph (d) of this section. Any law, Executive order, or regulation that disqualifies an applicant for appointment in the competitive service, such as the citizenship requirement, also disqualifies the applicant for appointment under this section. An individual may be appointed to any occupation and grade level for which qualified. An agency may waive any requirement for a written test after determining that the duties and responsibilities of the applicant's overseas position were similar enough to make the written test unnecessary.

(1) *Tenure.* A person appointed under this section becomes a career-conditional employee unless he or she has already satisfied the requirements for career tenure or is exempt from the service requirement in 5 CFR 315.201.

(2) *Competitive status.* A person appointed under this section acquires competitive status automatically upon completion of probation.

(b) *Creditable overseas service.* For purposes of this section only, creditable service is service in an appropriated fund position(s) performed by a family member under a local hire appointment(s) overseas during the time the family member was accompanying a sponsor officially assigned to an overseas area and for which the family member received a fully successful or better (or equivalent) performance rating. Creditable overseas service is computed in accordance with the procedures in the OPM Guide to Processing Personnel Actions. Creditable service may have been under more than one

appointment and need not be continuous. Leave without pay taken during the time an individual is in the overseas area is credited on the same basis as time worked.

(c) *Service waiver.* Up to 26 weeks of the 52-week service requirement is waived when the head of an agency (or designee) that employed the family member overseas certifies that the family member's expected 52 weeks of employment were cut short because of a nonpersonal situation that necessitated the relocation of the family member from the overseas area. The certification must include the number of weeks waived. For this purpose, a nonpersonal situation includes disaster, conflict, terrorism or the threat of terrorism, and those situations when a family member is forced to return to the United States because of military deployment, drawdowns, or other management-initiated actions. A nonpersonal situation does not include circumstances that specifically relate to a particular individual, for example, ill health or personal interest in relocating.

(d) *Time limit on eligibility.* An individual is eligible for appointment(s) under this authority for a period of 3 years following the date of returning from overseas to the United States to resume residence or until March 31, 1998, whichever date is later. An agency may extend an individual's appointment eligibility beyond 3 years for periods equivalent to—

(1) The time the individual was accompanying a sponsor on official assignment to an area of the United States with no significant opportunities for Federal employment; or

(2) The time an individual was incapacitated for employment.

(e) *Definitions.* In this section terms have the following meaning:

(1) *Family member.* An unmarried child under age 23 or a spouse. An individual must have been a family member at the time he or she met the overseas service requirement and other conditions but does not need to be a family member at the time of noncompetitive appointment in the United States.

(2) *Sponsor.* A Federal civilian employee, a Federal nonappropriated fund

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employee, or a member of a uniformed service who is officially assigned to an overseas area.

(i) *Officially assigned.* Under active orders issued by the United States Government.

(ii) *Federal civilian employee.* An employee of the executive, judicial, or legislative branch of the United States Government who serves in an appropriated fund position.

(iii) *Nonappropriated fund employee.* An employee paid from non-appropriated funds of the Army and Air Force Exchange Service, Navy Ship's Stores Ashore, Navy Exchanges, Marine Corps Exchanges, Coast Guard Exchanges, or other instrumentalities of the United States.

(iv) *Member of a uniformed service.* Personnel of the U.S. Armed Forces (including the Coast Guard), the commissioned corps of the Public Health Service, and the commissioned corps of the National Oceanic and Atmospheric Administration.

(3) *Accompanying.* The family member resided in the overseas area while the sponsor was officially assigned to an overseas post of duty. The family member need not have physically resided with the sponsor at all times or have traveled with the sponsor to or from the overseas area.

(4) *Local hire appointment.* An appointment that is not actually or potentially permanent and that is made from among individuals residing in the overseas area. In this section only, a local hire appointment includes non-permanent employment under:

(i) Overseas limited appointment under 5 CFR 301.203(b) or (c);

(ii) Expected appointment under Schedule A 213.3106(b)(1), 213.3106(b)(6), or 213.3106(d)(1) when the duration of the appointment is tied to the sponsor's rotation date or when the appointment is made on a not-to-exceed (NTE) basis;

(iii) An "American family member" or "part-time intermittent temporary (PIT)" appointment in U.S. diplomatic establishments;

(iv) 50 U.S.C. 403j; Public Law 86-36 (50 U.S.C. 402, note); the Berlin Tariff Agreement; or as a local national employee paid from appropriated funds; or

(v) Any other nonpermanent appointment in the competitive or excepted service approved by OPM.

(5) *Overseas.* A location outside the 50 States of the United States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

[61 FR 9322, Mar. 8, 1996]

§ 315.609 Appointment based on service in United States positions of the Panama Canal Commission.

(a) *Agency authority.* An agency may appoint noncompetitively, for other than temporary or term employment, a United States citizen who has served under nontemporary appointment in a continuing career position of the Panama Canal Commission located in the United States.

(b) *Service requirement.* An agency may appoint such an individual under this section only when, immediately prior to separation from a qualifying appointment with the Panama Canal Commission in the United States, the individual served continuously for at least 1 year under such qualifying appointment or under a combination of such appointment and nontemporary appointment in the Canal Zone Merit System or the Panama Canal Employment System.

(c) *Time limits.* (1) There is no time limit on the appointment under this section of an employee who:

(i) Is a preference eligible; or

(ii) Has completed at least 3 years of service, which did not include any break in service longer than 30 days, under one or more nontemporary appointments in Panama Canal Commission positions located in the United States or in positions under the Canal Zone Merit System and/or the Panama Canal Employment System.

(2) An agency may appoint under this section an employee who does not meet the conditions in (c)(1) of this section only if no more than 3 years have elapsed since the individual's separation from a qualifying appointment.

(d) *Tenure on appointment.* (1) On appointment under paragraph (a) of this section, an individual whose qualifying service does not include any break in service of more than 30 days and totals at least 3 years becomes a career employee.